

STATEMENT OF THE
NATIONAL BORDER PATROL COUNCIL
OF THE
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
AFL-CIO

BEFORE THE
COMMITTEE ON GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES

SECURING OUR BORDERS
WHAT WE HAVE LEARNED FROM
GOVERNMENT INITIATIVES AND CITIZEN PATROLS

PRESENTED BY
T.J. BONNER
NATIONAL PRESIDENT

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The National Border Patrol Council thanks the Committee for the opportunity to present the views of the 10,000 front-line Border Patrol employees that it represents regarding the current state of security along our Nation's borders and our recommendations for improvement.

It is beyond dispute that our Nation's borders are out of control. Last fiscal year, the Border Patrol apprehended 1,158,800 illegal aliens, an increase of nearly 25% over the previous fiscal year. Front-line Border Patrol agents estimate that for every illegal alien who is caught, at least two more slip by them. They are simply overwhelmed. About 10,700 agents are responsible for patrolling about 8,000 miles of border: 2,000 miles between the United States and Mexico, 4,000 miles between the continental United States and Canada, and the rest along the coastal boundaries in the southeastern United States and the Commonwealth of Puerto Rico.

Although the vast majority of those who cross our borders are seeking employment, an alarming number of criminals are also exploiting our porous borders. In the first three months after the automated fingerprint systems of the Border Patrol and the FBI were integrated last September, more than 23,500 criminals — about 8% of the total number of all persons apprehended — were arrested, including 84 homicide suspects, 37 kidnaping suspects, 151 sexual assault suspects, 212 robbery suspects, 1,238 suspects for assaults of other types, and 2,630 suspects implicated in dangerous narcotic related charges.¹ It is not unreasonable to assume that the same percentage of criminals would be found among the millions of people who avoid apprehension, nor is it unrealistic to presume that at least some terrorists manage to slip into the United States across our borders.

Although illegal immigration has recently emerged as a matter of great public concern, it is by no means a new problem. The increased level of concern is no doubt due to a growing awareness of the homeland security implications of porous borders. Most Americans expect their Government to take action to secure the borders. There is no consensus, however, on how best to achieve this goal.

¹ Customs and Border Protection press release, December 20, 2004.

There is some level of public support for a number of potential solutions, including:

- Dramatically increasing the size of the Border Patrol.
- Utilizing advanced technology to assist the Border Patrol in detecting illegal crossings.
- Increasing enforcement of immigration laws at worksites.
- Increasing enforcement of immigration laws in interior cities.
- Authorizing State and local law enforcement officers to enforce immigration laws.
- Creating State “Border Police” forces.
- Utilizing the military and/or National Guard to assist the Border Patrol in an auxiliary role.
- Utilizing civilian volunteers to assist the Border Patrol in an auxiliary role.
- Deploying the National Guard along the border to enforce immigration laws.
- Deploying the military along the border to enforce immigration laws.

Out of all possible solutions, the National Border Patrol Council is firmly convinced that only one will result in secure borders: the enactment of legislation that addresses the root of the problem by eliminating the employment magnet. Ninety-eight percent of those who cross our borders illegally do so in search of employment opportunities in the United States. As long as illegal aliens are able to find jobs, they will continue to cross our borders. As long as the Border Patrol is overwhelmed by millions of illegal aliens crossing our borders annually in search of work, it will be unable to focus its enforcement efforts on stopping terrorists and criminals from entering our country. H.R. 98, the “Illegal Immigration Enforcement and Social Security Protection Act of 2005,” will eliminate the employment magnet and is therefore unequivocally supported by the National Border Patrol Council. The legislation would enable employers to easily determine if an individual is authorized to work in this country and would also facilitate the imposition of stiff penalties against those employers who violate the law.

Any strategy that focuses almost exclusively upon border enforcement is doomed to fail. It is unrealistic to expect that impoverished people who can earn ten to fifty times more in the United States

than they can in their native country will somehow be deterred from crossing the border by the presence of a few thousand law enforcement officers or even soldiers. This is the reason that the current enforcement strategy is not working, and why many of the potential solutions that are being considered will also ultimately prove useless in curbing illegal immigration.

The Arizona Border Control initiative currently being pursued by the Administration not only embraces this one-dimensional philosophy, it carries it to the extreme. As its name suggests, the sole focus of the initiative is on the State of Arizona, and in fact most of the resources being added there are being shifted away from other parts of the southwest border. Experience has already demonstrated that smugglers will rapidly adjust their routes to those areas where they are most likely to successfully elude apprehension. Placing all of the additional resources in one area merely pushes the problem somewhere else. Since the Border Patrol initiated its strategy of gaining control of the border “inch by inch” about 10 years ago, it claims to have gained control of about 150 miles of border. At this rate, it will take about another 400 years to gain control of the entire southwest and northern borders. Of course, this assumes that the Border Patrol would actually be able to maintain control of areas after it has shifted resources away from them.

In addition to unwisely distributing its resources, the Administration is inappropriately attempting to replace personnel with technology. While technology can be a useful tool in detecting intrusions, it cannot replace the agents who apprehend violators. Cost-effective technology can only provide a snapshot of what is crossing the border at a given moment in time, and is incapable of tracking movement beyond that point. Unfortunately, employees are often provided with useless technology, and denied access to the technology and support that they really need. Last year, the National Border Patrol Council co-sponsored a survey of front-line Border Patrol agents and Customs and Border Protection officers to solicit their opinions about critical aspects of their jobs. It revealed that nearly two-thirds of all employees do not believe that they have been given the proper tools, training and support to be effective in stopping potential

terrorists from entering the country. Almost the same number felt that the Department of Homeland Security could be doing more to stop potential terrorists and protect the country. An equal number complained of low morale among their co-workers. Finally, despite the fact that over three-quarters of all Border Patrol agents felt that the strategy of deterrence was ineffective, it remains in place today.

The lack of a coordinated and comprehensive strategy has also hampered enforcement efforts. For example, detention and removal funding shortfalls at the Bureau of Immigration and Customs Enforcement result in almost all illegal aliens from countries other than Mexico being released on their own recognizance. This has sparked a massive influx of illegal aliens from Central and South America. About three-fourths of all Border Patrol agents in South Texas now spend their time processing these aliens, leaving only a handful of agents to protect our borders. This situation is untenable.

Although the Bureau of Immigration and Customs Enforcement has recently made token efforts to enforce the existing employer sanctions laws in response to public criticism, this approach will not deter people from coming here illegally because those laws are fundamentally flawed. It is far too easy to obtain counterfeit documentation, and it is unreasonable to expect employers to differentiate between genuine and phony documents.

Many of those who advocate the placement of troops along the border fail to realize that the role of the military would be the same as that of the Border Patrol — apprehending illegal aliens and returning them home. Impoverished foreigners who are willing to risk their lives crossing the border in search of work will not be deterred any more by soldiers than they are by Border Patrol agents. In order to deploy the military for this purpose, the Posse Comitatus Act, which precludes the military from engaging in civilian law enforcement activities, would have to be modified. Furthermore, in order for troops to effectively accomplish the expected task within the bounds of the law, they would need to receive the same level of training in immigration and other laws, Spanish, and other law enforcement topics that Border Patrol agents receive during their 19 weeks of intensive training. The consequences of failing to do so

could be disastrous, as illustrated by an incident in which Esequiel Hernandez, Jr., an 18-year-old goat herder, was shot to death by a squad of four U.S. Marines conducting counter-drug border surveillance for the Border Patrol in Redford, Texas in 1997. An oversight investigation conducted by the House Subcommittee on Immigration and Claims made the following findings concerning training issues:

Since World War II, United States military personnel have patrolled international borders throughout the world, from the Warsaw Pact to Korea to the Balkans. Experience has shown that border missions are often dangerous, difficult, and delicate, but they can be performed successfully by properly trained personnel. Proper training must include detailed instruction in the military, civilian, and diplomatic aspects of the mission, as well as frequent drilling in emergency procedures.

The Coyne Report, based on a thorough investigation of the training and preparation conducted for Mission 414-97A, concluded that both were inadequate for the mission at hand. Poor planning and execution of mission-related training were found at the Marine Corps divisional, regimental, battalion and battery levels. The central problem was that the chain of command regarded the mission primarily as a training opportunity for Marines, rather than as a complex real-world mission involving significant risk.²

Since this costly training investment needs to be made, it should be provided to career employees who will remain in Government service instead of short-term military enlistees. The Border Patrol has never experienced any difficulties in recruiting new employees. It has, however, experienced difficulties in retaining employees. This is due to several factors, including relatively low pay compared to similar law enforcement occupations at the Federal, State and local levels; lack of job satisfaction stemming from the “strategy of deterrence” that requires agents to sit in one spot for hours on end; and the new personnel rules that allow managers to treat and pay employees unfairly.

The recent Minuteman Project at the border in Arizona is by no means the first group of citizens to assemble to demand enforcement of our immigration laws. In the latter part of 1989, Muriel Watson, the widow of Border Patrol agent George Watson, founded the “Light Up the Border” movement in San Diego, California. Groups of citizens would drive to the border at night and point their headlights at the

² Oversight Investigation of the Death of Esequiel Hernandez, Jr., page 8. (November 1998)

no-man's land where robberies, rapes, and even murders occurred all too frequently. These crimes and one of the special police units deployed to combat them were documented in Joseph Wambaugh's best-selling book *Lines and Shadows*. As a result of this attention, the Government installed permanent lighting fixtures and triple fencing along much of the 14-mile stretch of border south of San Diego. That, along with a dramatic increase in the number of Border Patrol agents, caused the pattern of illegal immigration to shift away from that part of the border.

Front-line Border Patrol employees are very appreciative of the support shown by citizens who speak out for secure borders and additional resources to achieve that goal. They also deeply empathize with citizens who are frustrated by the Government's lack of resolve to secure the borders, for they experience it both from the perspective of border residents and workers who are forced to carry out policies that often make little or no sense. They do not, however, condone anyone taking the law into their own hands, nor do they encourage people to place themselves in harm's way at the border in order to make political statements.

In summary, the legislative and bureaucratic response to the border security crisis thus far has been a curious mixture of strategies, none of which have been particularly effective. The main reason for this is that all of these strategies fail to address the source of the problem: the great disparity in wages between the United States and every developing nation in the world, including our neighbors to the south. Until Congress enacts legislation that eliminates the employment magnet, there will be no solution to the problem of illegal immigration and our borders will remain porous, leaving our Nation extremely vulnerable to further terrorist attacks.